



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

SEP 3 0 2004

Mr. Clarke Camper

Chevy Chase, Maryland 20815-4229

RE: MUR 5390

Dear Mr. Camper:

On September 14, 2004, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such

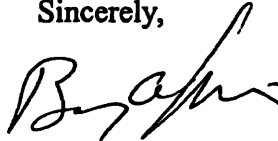
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counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Tracey L. Ligon, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Bradley A. Smith
Chairman

Enclosures
Factual and Legal Analysis

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¹ This description was taken from Freddie Mac's website, located at <http://www.freddie.mac.com/about/whoweare/regulation/oversight.html> (visited April 15, 2004).

B. Clarke Camper and Progressive Strategies, Inc.

Clarke Camper, then Vice President of Government Relations, reportedly engaged in fundraising activity with a Freddie Mac vendor, Progressive Strategies, Inc., with which Freddie Mac had a "consulting agreement." Specifically, documentary evidence indicates that Scott Freda, a Progressive Strategies employee, solicited contributions to a candidate in conjunction with Mr. Camper in or around March 2002. This documentary evidence, is an email response from Mr. Freda to an earlier email message from Mr. Camper, in which Mr. Camper stated:

hi scott, i'm finally getting a chance to see where we are on reed. can you remind me who your participants were and the \$ amounts? thanks! cdc

Mr. Freda's email response provides what appear to be contributor names, the names of their employers, and the amounts they contributed to the campaign of Senator Jack Reed.

Solicitations for contributions to clearly identified candidates are express advocacy and would, therefore, constitute impermissible corporate contributions/expenditures if the solicitations are attributable to a corporation. *See Federal Election Commission v. Christian Coalition*, 52 F.Supp.2d 45, 62 (1999). While the Commission's regulations exempt from the definition of "contribution" and "expenditure" communications by a corporation to its restricted class, which includes its stockholders and executive or administrative personnel and their families, *see* 2 U.S.C. § 441b(b)(2)(A); 11 C.F.R. §§ 114.1(a)(2)(i) and 114.3, the record contains no indication that Mr. Freda's solicitations were directed to members of its restricted class, and a review of disclosure reports reveals that the individuals identified in Mr. Freda's email

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1 were not Freddie Mac employees.² Thus, if Mr. Freda's apparent solicitations beyond
2 Freddie Mac's restricted class can be attributable to Freddie Mac, any payments by
3 Freddie Mac related to the solicitations would constitute corporate contributions in
4 violation of 2 U.S.C. § 441b.

5 Mr. Camper reportedly maintains that Mr. Freda solicited the contributions in his
6 individual capacity and not as part of Freddie Mac's retention of Progressive Strategies.
7 However, the record contains no information that supports this contention or that
8 suggests that Mr. Camper and Mr. Freda had a relationship outside of Mr. Freda's work
9 with Progressive Strategies. Further, the record contains a copy of Freddie Mac's
10 "consulting" agreement with Progressive Strategies, Inc. The agreement states, *inter*
11 *alia*, that Progressive Strategies "working with the staff of Freddie Mac will provide
12 general support, advice and guidance on fundraising and program work" Thus, there
13 is reason to believe that in soliciting contributions with Mr. Camper, Mr. Freda was
14 acting within the scope of the Freddie Mac/Progressive Strategies agreement. Based on
15 the foregoing, there is reason to believe that Clarke Camper, as a corporate officer and
16 agent, violated 2 U.S.C. § 441b by consenting to payments by Freddie Mac to
17 Progressive Strategies for fundraising activity in connection with federal elections.

18 **C. Corporate Facilitation of Contributions**

19 Robert Mitchell Delk ("Mitch Delk"), Senior Vice President of Government
20 Relations at Freddie Mac between January 1999 and March 2004, and Mr. Camper
21 reportedly had a practice of soliciting individual earmarked contributions from Freddie

² Under the Act, "executive or administrative personnel" means individuals employed by the corporation who are paid on a salary basis, and who have policymaking, managerial, professional or supervisory responsibilities. 2 U.S.C. § 441b(b)(7). See 11 C.F.R. § 114.1(c). The Commission's regulations define stockholder as "a person who has a vested interest in stock, has the power to direct how that stock shall be voted, if it is voting stock, and has the right to receive dividends." 11 C.F.R. § 114.1(h).

Mac executives, which were collected and transmitted by Freddie Mac personnel to recipient campaign committees. Both Mr. Delk and Mr. Camper reportedly discussed individual contributions to federal candidates with senior Freddie Mac executives, including the Chief Executive Officer ("CEO") and General Counsel, and forwarded the contributions to the recipient committees, sometimes with the assistance of Freddie Mac personnel. Freddie Mac reportedly describes these activities as "personal activity" and maintains that all of the executives solicited for contributions, which were solicited between September 1998 and July 2002 and totaled \$41,500, were part of Freddie Mac's restricted class.

A corporation may make partisan communications to its restricted class, which includes its stockholders and executive or administrative personnel and their families. *See* 2 U.S.C. § 441b(b)(2)(A); 11 C.F.R. §§ 114.1(a)(2)(i) and 114.3; *see also* footnote 3. As such, a corporation may solicit or suggest in a communication sent to its restricted class that they contribute to a particular candidate or committee; however, a corporation (including officers, directors or other representatives acting as agents of corporations) may not facilitate the making of the individual's contribution to the candidate or act as a conduit for individual contributions. *See* 11 C.F.R. §§ 114.2(f) and 110.6(b)(2)(ii). Examples of facilitating the making of contributions include: (1) officials or employees of the corporation ordering subordinates or support staff (who therefore are not acting as volunteers) to plan, organize or carry out the fundraising project as a part of their work responsibilities using corporate resources; and (2) providing materials for the purpose of transmitting or delivering contributions, such as stamps, envelopes addressed to a candidate or political committee other than the corporation's or labor organization's

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1 separate segregated fund, or other similar items which would assist in transmitting or
2 delivering contributions, but not including providing the address of the candidate or
3 political committee. *See* 11 C.F.R. § 114.2(f)(2)(ii).

4 Ms. Ella Lee, the assistant to Leland Brendsel, the CEO of Freddie Mac,
5 reportedly "relayed messages" between Mr. Delk, Mr. Camper and Mr. Brendsel, as well
6 as other executives concerning individual contributions to federal candidates. In
7 addition, Ms. Lee reportedly collected contributions from the executives and transmitted
8 them to the candidates' campaigns or to Mr. Delk or Mr. Camper, who then transmitted
9 the contributions to the campaigns. Ms. Lee reportedly arranged, at times, for a courier
10 service paid by Freddie Mac to deliver the checks to the campaigns. The record contains
11 no indication that Ms. Lee was acting as a volunteer in carrying out these activities.
12 Documents contained in the record indicate that \$5,000 in individual contributions was
13 transmitted to campaign committees by courier paid for by Freddie Mac between
14 September and November 2001. Based on the foregoing, there is reason to believe that
15 Clarke Camper, as an officer and agent of Freddie Mac, violated 2 U.S.C. § 441b by
16 consenting to the use of corporate resources to facilitate campaign contributions.

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